REFINERY PERMIT PROCESS SCHEDULE ACT

SPEECH OF

HON. BETTY McCOLLUM

OF MINNEOSTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 7, 2006

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I rise today in opposition to the Refinery Permit Process Schedule Act—H.R. 5254. This bill wrongly attempts to streamline environmental regulations in an effort to spur construction of new refining facilities, while doing nothing to move the country toward energy independence.

The Refinery Permit Process Schedule Act—H.R. 5254—mandates additional Federal oversight and requires State and local governments to comply with a new Federal schedule for approving permits to site, construct or expand a refinery. This bill fails to address legitimate concerns over the slow pace of expansion and increasing geographic concentration of America's oil refining facilities.

Supporters of H.R. 5254 blame state and local environmental regulations for obstructing the construction of new refining facilities. But private oil refining companies are choosing not to construct new facilities based on their own economic projections rather than local environmental hurdles. The Wall Street Journal recently reported that Exxon is not building new refineries because it expects growth in U.S. demand for gasoline will be too insufficient to justify the capital investment. The chief executive officer for Shell Oil testified before Congress in 2005 that he knows of no environmental regulations that have prevented his company from expanding refinery capacity or siting a new refinery. Clearly, undermining State and local laws will do nothing to change the market-forces that are the true basis of companies' decisions regarding refinery construction.

In addition, H.R. 5254 does nothing to promote home-grown biofuels, a critical element of America's energy independence strategy. In the last 30 years, 97 new bio-refineries have been built in the U.S. and more are needed. But this bill will not expand America's biofuel industry for the same reason it fails to expand oil refining capacity—State and local regulations are not the barrier to growth. Biofuel industry experts have testified that State and local regulations have not prevented the siting or permitting of new bio-refineries.

It is time for leadership, vision and commitment from Washington to make the smart investments that will protect our Nation's economic security and our planet's future. In Congress, we should start by rescinding the billion of dollars in subsidies for oil and gas companies to expand drilling. We must invest in research and extend incentives for alternative energy sources such as wind, biomass and biofuels that keep energy costs down, create jobs and make us more competitive in the global economy. A clean energy future that addresses oil dependence and environmental concerns such as climate change is achievable.

But we should not expect our energy situation to change until the Bush administration and the Republican leaders in Congress get serious about tackling our oil dependence.

H.R. 5254 is a thinly veiled second attempt by the Republican majority to pass the controversial Gasoline for America's Security Act—H.R. 3893—which the House narrowly passed in 2005 and the Senate ignored. As with that bill, H.R. 5254 has had no hearings, no markups, no opportunity for Congress to make necessary inquiries. Real solutions to America's energy challenges will result from a transparent legislative process, bipartisan cooperation and visionary ideas. The Republican majority has once again offered energy legislation that falls far short of a real solution.

IN SPECIAL RECOGNITION OF JOEL M. CARP

HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 9, 2006

Mr. JOHNSON of Illinois. Mr. Speaker, I rise today in honor and recognition of Joel M. Carp upon the occasion of his retirement after 28 years of service with the Jewish Federation of Metropolitan Chicago. Throughout his distinguished career, Mr. Carp has supported continued social work, social planning and advocacy in the City of Chicago, the State of Illinois, and the country as a whole.

For over 30 years, Mr. Carp has dedicated his professional and personal life as an advocate for numerous social policy efforts serving on a number of government task forces and advisory boards, including the City of Chicago Mayor's Task Force on Hunger, the Cook County Task Force on Welfare Reform, and the Governor's Task Force on Services for the Homeless to name just a few. Additionally, Mr. Carp has served as a member of numerous local, state, and national professional and community service organizations as an advocate for the welfare of the Jewish community.

As an effective leader and tireless advocate, Mr. Carp has received several awards in recognition of his work, including the Melvin A. Block Award for Professional Distinction from the Associated YM–YWHAs of Greater New York, the City of Chicago's Commission on Human Relations Award, and a special award from the YMCA of the USA for helping to restore Agency for International Development funding for human services in Lebanon.

Upon his retirement as the Senior Vice President for Community Services and Government Relations of the Jewish Federation/Jewish United Fund of Metropolitan Chicago, Mr. Carp leaves behind a long legacy of social advocacy within the Jewish community. Mr. Carp is an inspiration to all for his dedication and leadership in shaping and improving social policy.

Mr. Speaker, I ask my colleagues to join me in honoring Joel M. Carp in recognition of his distinguished and tireless work and service to his community.

RECOGNIZING TAYLOR MICHAEL WALLACE FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, June 9, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Taylor Michael Wallace, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and in earning the most prestigious award of Eagle Scout.

Taylor has been very active with his troop, participating in many scout activities. Over the many years Taylor has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Taylor Michael Wallace for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

FORMER PENTAGON LAWYER ALBERTO J. MORA: AN EXEMPLAR OF AMERICAN VALUES WITH A WARNING: DO NOT LET FEAR OVERCOME THE DISCIPLINE OF LAW AND AMERICAN VALUES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 9, 2006

Mr. RANGEL. Mr. Speaker, I rise to introduce into the RECORD an opinion piece by former Navy lawyer Alberto J. Mora entitled ''An Affront to American Values'' which appeared in the Washington Post on May 27, 2006, as well as an Op-Ed of February 20, 2006 in The New York Times entitled ''Senior Lawyer at Pentagon Broke Ranks on Detainees.''

The Times pointed out in its Op-Ed that Alberto Mora in his position as one of the Pentagon's top civilian lawyers ''repeatedly challenged the Bush administration's policy on the coercive interrogation of terror suspects, arguing that such practices violated the law, verged on torture, and could ultimately expose senior officials to prosecution . . .'' The information came from a then newly disclosed document, a memorandum Mr. Mora wrote in July 2004 and made public in an article in The New Yorker magazine on February 19, 2006.

I have repeatedly spoken out against the ''torture policies'' directly traced to Secretary of Defense Rumsfeld, Vice President CHENEY (who remains a champion of torture) and President Bush who two weeks after the Congress passed a law banning all torture of any person in the custody of the U.S. issued a signing letter stating he was not bound by that law when in his judgment he needs to use torture in his war on terror.

I am immensely gratified to know Mr. Mora challenged the opinions of Secretary Rumsfeld, who is not a lawyer and appears to have a low regard for the law, regarding the legal parameters of the treatment of detainees. But I am most proud and grateful for two excellent questions Mr. Mora asked his clients at the Pentagon which The Times reported: ''Defense Department officials found striking and out of character for a loyal Republican, a supporter of President Bush, Secretary Rumsfeld and the fight against terrorism.''

He asked the questions every one in the Pentagon and the Military of good character should have asked regardless of his or her

party affiliation or loyalty to the President. According to the memo printed in The New Yorker Mr. Mora asked the Pentagon's chief lawyer, William J. Haynes II:

''Even if one wanted to authorize the U.S. Military to conduct coercive interrogations, as was the case in Guantanamo, how could one do so without profoundly altering its core values and character?''

According to the Times article after trying to rally other senior officials to his position, Mr. Mora met again with Mr. Hayes on January 10, 2003. His question to Mr. Hayes that day is another every person of good moral character should be asking:

''Had we jettisoned our human rights policies?''

I will here answer both of Mr. Mora's questions: NO. The U.S. Military can not adopt coercive tactics as were used at Guantánamo without profoundly altering its core values and character. Look at what occurred at Haditha, Iraq.

YES. As to prisoners in our custody with President Bush, Vice President Cheney and Secretary Rumsfeld in full charge of the Iraq war, the Military has abandoned its 200 year history and jettisoned its human rights policies.

Mr. Mora retired on December 31, 2005. I am pleased he is still speaking out for American values and still asking very good questions. In his opinion piece in The Washington Post he asks the American people to consider some very good questions about the continued detention and treatment of ''unlawful combatants'' at Abu Ghraib and the treatment of detainees at Guantánamo.

In naming his piece ''An Affront to American Values'' I knew immediately Mr. Mora has not changed his mind about the way the President Bush and Secretary Rumsfeld are directing the military to treat prisoners in military custody no matter how they are named; unlawful combatants, detainees or high-value targets. Perhaps he is now making his arguments to the American people because his opinions were heard but clearly disregarded by the Pentagon's Chief Lawyer. And Mr. Mora believes he was right. I believe he was right. I believe Bush-Cheney-Rumsfeld, Attorneys (the President can do anything he wants) John Wu, David Addington Cheney's Attorney, and now Chief of Staff, and Attorney General Alberto Gonzalez were very wrong on the treatment and labeling of prisoners and remain wrong. I agree with Representative JOHN MURTHA; we lost the hearts and minds of the Iraqi people at Abu Ghraib.

We also lost American support of the war in part because of what Americans did at Abu Ghraib. We lost more Americans because of treatment of detainees at Guantánamo. We will lose still more with incidents like the massacre of innocent men, women. Have we had turned our marines into murderers who shot two-year old babies? They are in a war based on lies, run by a Secretary of Defense who has no idea of how to get them out, who doesn't give them what they need to protect themselves, enough help to hold territory they fight for and stays in the hanger where he plane lands when he visits the troops.

In the Post opinion piece Mr. Mora reminds us of how we treated Japanese Americans during World War II and just how we came to treat these innocent people as if they were criminals and spies because of their ancestry. He reminds us how we did this crime in violation of the United States Constitution and how the U.S. Supreme Court abdicated its judicial responsibility in the famous Korematsu decision, in which it endorsed the patently unconstitutional detention of American citizens.

Americans unconstitutionally detained Japanese Americans because Mr. Mora writes; ''in our quest for security'' when the Japanese attacked Pearl Harbor, ''in what will always be regarded as an act of national shame, military authorities rounded up 120,000 American citizens and incarcerated them on the presumption of disloyalty. . . .''

Korematsu reminds us that when threats and fear converge, our laws and principles can become fragile. They are fragile today.

Mr. Mora writes that in the summer of 2002, U.S. authorities held in detention at Guantanamo and elsewhere people President Bush, Vice President CHENEY Secretary Rumsfeld and perhaps others believed had information needed to prevent further terrorist attacks. These same people believed the detainees could be called ''unlawful combatants'' and ''interrogation methods'' constituting cruel, inhuman and degrading treatment could be applied at Abu Ghraib, Guantánamo and other locations. We know the treatment may have reached the level of torture in some instances.

The American public knows torture occurred as do the members of the Congress who supported JOHN MCCAIN's anti torture amendment which became law and is now the Detainee Treatment Act of 2005. The American people have read the testimony and perhaps heard the testimony of some of the innocent people who suffered U.S. ''rendition'' to another country like Syria and have returned after being tortured and attempted to sue the U.S. government for their treatment. There is not an iota of fact showing that torture yields good evidence. Senator JOHN MCCAIN who was tortured for more than five years testified to that. Experts in torture all agree people who are tortured will say anything to make the pain stop.

I am ashamed for my country because The Detainee Treatment Act had to be introduced and voted on because this proud country has always had a policy of acknowledging the basic human rights of prisoners of war. The United States does not execute prisoners of war and does not torture, humiliate, starve, degrade or otherwise treat prisoners of war in a way that is inhuman.

Our military has always been bound by the Uniform Military Code, the Geneva Conventions and the Laws of War. In addition, as Mr. Mora writes:

''It is astonishing to me, still, that I should be here today addressing the issue of American cruelty—or that anyone would ever have to. Our forefather, who permanently defined our civic values, drafted our Constitution inspired by the belief that law could not create but only recognize certain inalienable rights granted by God—to every person, not just citizens, not just here but everywhere. Those rights are a shield that protects core human dignity. Because this is so, the Eighth Amendment prohibits cruel punishment. The constitutional jurisprudence of the Fifth and Fourteenth Amendments outlaws cruel treatment that shocks the conscience. The Geneva Conventions forbid the application of cruel, inhuman and degrading treatment of all captives, as do all of the major or human rights treaties adopted and ratified by our country during the last century.''

I find it shocking as well. What I also find shocking and disheartening is an answer Secretary Rumsfeld gave the other day when asked if the prohibition against torture had been put into the field manual and into practice; his answer was ''not yet.'' The reason that it was not yet in the field manual for the military in Iraq and Afghanistan? The Pentagon was still arguing about certain terms like ''unlawful combatant.'' The Secretary of Defense doesn't get it. The anti-torture law applies to any person in the custody of Americans wherever they are. The fact that Rumsfeld is holding up the implementation of the anti-torture act and the implementation of human rights military policy of the past 200 years, the conduct we agreed to when we signed treaties and the treatment of prisoners we agreed to when we signed and then ratified the Geneva Conventions, leaves our men and women fighting Mr. Bush's Iraq war in great danger of being charged with criminal offenses. In fact, it is happening now.

The American people must fight back. They must let this Administration know how much they object to what is happening to our proud military's moral character. American's must know this President relies on a Secretary of Defense that has no regard for Generals that have served in combat and understands the Uniform Code of Military Justice and the rules governing how our military treats prisoners of war. Our men and women in combat are at grave risk when such crucial decisions are made by men who have never served in the military and will not take the advice of those who have.

Mr. Mora asks: '' In this war, we have come to a crossroads—much as we did in the events that led to Korematsu: Will we continue to regard the protection and promotion of human dignity as the essence of our national character and purpose or will we bargain away human and national dignity in return for an additional possible measure of physical security?''

Mr. Mora tells us as he attempted to tell his boss at the Pentagon why it matters for us to care about the human rights of prisoners and our national dignity. He writes:

''We should care because the issues raised by a policy of cruelty are too fundamental to be left unaddressed, unanswered or ambiguous. We should care because a tolerance of cruelty will corrode our values and our rights and degrade the world in which we live. It will corrupt our heritage, cheapen the valor of the soldiers upon whose past and present sacrifices our freedoms depend, and debase the legacy we will leave to our sons and daughters. We should care because it is intolerable to us that anyone should believe for a second that our nation is tolerant of cruelty. And we should care because each of us knows that this issue has not gone away.''

AN AFFRONT TO AMERICAN VALUES

(By Alberto J. Mora)

In response to the 3,000 murders on Sept. 11, 2001, our nation went to war. In Afghanistan, our targets were the al-Qaeda perpetrators and the Taliban regime that aided and abetted them. In Iraq, the target was an unstable tyrant who had a history of using chemical weapons and who could be trusted to cheat on and retreat from his international commitments. I supported both engagements as Navy general counsel. I support them still as a private citizen. I regard each as a prudent and even necessary use of force. The terrorist threat, and the threat

posed by weapons of mass destruction in reckless hands, can never be underestimated.

And yet, there have been times in our nation's history when, in our quest for security, our fear momentarily overcomes our judgment and our power slips the discipline of the law and our national values.

One such moment occurred in 1942, after the Japanese attack on Pearl Harbor. In what will always be regarded as an act of national shame, military authorities rounded up 120,000 American citizens of Japanese ancestry and incarcerated them on the presumption of disloyalty. These citizens were stripped of their rights and held in detention camps for the duration of the war. Many lost businesses and property. When we recall this event—and it is relevant to our current situation—we also recall with shame the Supreme Court's abdication of its judicial responsibilities in the notorious Korematsu decision, in which it endorsed the legality of the patently unconstitutional detention.

Korematsu reminds us that when threats and fear converge, our laws and principles can become fragile. They are fragile today. In the summer of 2002, at Guantánamo and elsewhere, U.S. authorities held in detention individuals thought to have information on other impending attacks against the United States. Unless this information was obtained, it was believed, more Americans—perhaps many more—would die. In this context, our government issued legal and policy documents providing, in effect, that for some detainees labeled as ''unlawful combatants,'' interrogation methods constituting cruel, inhuman and degrading treatment could be applied under the president's constitutional commander in chief authorities. Although there is debate as to the details of how, when and why, we know such cruel treatment was applied at Abu Ghraib, Guantánamo and other locations. We know the treatment may have reached the level of torture in some instances. And there are still questions as to whether these policies were related, if at all, to the deaths of several dozen detainees in custody.

It is astonishing to me, still, that I should be here today addressing the issue of American cruelty—or that anyone would ever have to. Our forefathers, who permanently defined our civic values, drafted our Constitution inspired by the belief that law could not create but only recognize certain inalienable rights granted by God—to every person, not just citizens, and not just here but everywhere. Those rights form a shield that protects core human dignity. Because this is so, the Eighth Amendment prohibits cruel punishment. The constitutional jurisprudence of the Fifth and Fourteenth Amendments outlaws cruel treatment that shocks the conscience. The Geneva Conventions forbid the application of cruel, inhuman and degrading treatment to all captives, as do all of the major human rights treaties adopted and ratified by our country during the last century.

Despite this, there was abuse. Not all were mistreated, but some were. For those mistreated, history will ultimately judge what the precise quantum of abuse inflicted was—whether it was torture or some lesser cruelty—and whether it resulted from official commission or omission, or occurred despite every reasonable effort to prevent the abuse. Whatever the ultimate historical judgment, it is established fact that documents justifying and authorizing the abusive treatment of detainees during interrogation were approved and distributed. These authorizations rested on three beliefs: that no law prohibited the application of cruelty; that no law should be adopted that would do so; and that our government could choose to apply the cruelty—or not—as a matter of policy depending on the dictates of perceived military necessity.

The fact that we adopted this policy demonstrates that this war has tested more than our nation's ability to defend itself. It has tested our response to our fears and the measure of our courage. It has tested our commitment to our most fundamental values and our constitutional principles.

In this war, we have come to a crossroads—much as we did in the events that led to Korematsu: Will we continue to regard the protection and promotion of human dignity as the essence of our national character and purpose, or will we bargain away human and national dignity in return for an additional possible measure of physical security?

Why should we still care about these issues? The Abu Ghraib abuses have been exposed; Justice Department memoranda justifying cruelty and even torture have been ridiculed and rescinded; the authorizations for the application of extreme interrogation techniques have been withdrawn; and, perhaps most critically, the Detainee Treatment Act of 2005, which prohibits cruel, inhuman and degrading treatment, has been enacted, thanks to the courage and leadership of Sen. John McCain.

We should care because the issues raised by a policy of cruelty are too fundamental to be left unaddressed, unanswered or ambiguous. We should care because a tolerance of cruelty will corrode our values and our rights and degrade the world in which we live. It will corrupt our heritage, cheapen the valor of the soldiers upon whose past and present sacrifices our freedoms depend, and debase the legacy we will leave to our sons and daughters. We should care because it is intolerable to us that anyone should believe for a second that our nation is tolerant of cruelty. And we should care because each of us knows that this issue has not gone away.

The writer, who retired as Navy general counsel last year, wrote a memo to Pentagon officials two years before the Abu Ghraib scandal that warned against circumventing international agreements on torture and detainee treatment. This article is excerpted from remarks he made upon receiving a 2006 John F. Kennedy Profile in Courage Award.

Senior Lawyer at Pentagon Broke Ranks on Detainees

(By Tim Golden)

One of the Pentagon's top civilian lawyers repeatedly challenged the Bush administration's policy on the coercive interrogation of terror suspects, arguing that such practices violated the law, verged on torture and could ultimately expose senior officials to prosecution, a newly disclosed document shows.

The lawyer, Alberto J. Mora, a political appointee who retired Dec. 31 after more than four years as general counsel of the Navy, was one of many dissenters inside the Pentagon. Senior uniformed lawyers in all the military services also objected sharply to the interrogation policy, according to internal documents declassified last year.

But Mr. Mora's campaign against what he viewed as an official policy of cruel treatment, detailed in a memorandum he wrote in July 2004 and recounted in an article in the Feb. 27 issue of The New Yorker magazine, made public yesterday, underscored again how contrary views were often brushed aside in administration debates on the subject.

''Even if one wanted to authorize the U.S. military to conduct coercive interrogations, as was the case in Guantanamo, how could one do so without profoundly altering its core values and character?'' Mr. Mora asked the Pentagon's chief lawyer, William J. Haynes II, according to the memorandum.

A Pentagon spokeswoman, Lt. Col. Tracy O'Grady-Walsh, declined to comment late yesterday on specific assertions in Mr. Mora's memorandum. ''Detainee operations and interrogation policies have been scrutinized under a microscope, from all different angles,'' she said. ''It was found that it was not a Department of Defense policy to encourage or condone torture.''

In interviews, current and former Defense Department officials said that part of what was striking about Mr. Mora's forceful role in the internal debates was how out of character it seemed: a loyal Republican, he was known as a supporter of President Bush, Defense Secretary Donald H. Rumsfeld and the fight against terrorism.

''He's an extremely well-spoken, almost elegant guy,'' the former director of the Naval Criminal Investigative Service, David L. Brandt, who first came to Mr. Mora with concerns about the interrogation methods, said in an interview last week. ''He's not a door-kicker.''

Mr. Mora is also known for generally avoiding public attention. Reached by telephone yesterday, he declined to comment further on his memorandum.

Mr. Mora prepared the 22-page memorandum for a Defense Department review of interrogation operations that was conducted by Vice Adm. Albert T. Church III, after the scandal involving treatment of prisoners at the Abu Ghraib prison in Iraq.

The document focused on Mr. Mora's, successful opposition to the coercive techniques that Mr. Rumsfeld approved for interrogators at Guantánamo Bay on Dec. 2, 2002, and Mr. Mora's subsequent, failed effort to influence the legal discussions that led to new methods approved by Mr. Rumsfeld the following April.

Mr. Mora took up the issue after Mr. Brandt came to him on Dec. 17, 2002, to relay the concerns of Navy criminal agents at Guantánamo that some detainees there were being subjected to ''physical abuse and degrading treatment'' by interrogators.

Acting with the support of Gordon R. England, who was then secretary of the Navy and is now Mr. Rumsfeld's deputy, Mr. Mora took his concerns to Mr. Haynes, the Defense Department's general counsel.

''In my view, some of the authorized interrogation techniques could rise to the level of torture, although the intent surely had not been to do so,'' Mr. Mora wrote.

After trying to rally other senior officials to his position, Mr. Mora met again with Mr. Haynes on Jan. 10, 2003. He argued his case even more forcefully, raising the possibility that senior officials could be prosecuted for authorizing abusive conduct, and asking: ''Had we jettisoned our human rights policies?''

Still, Mr. Mora wrote, it was only when he warned Mr. Haynes on Jan. 15 that he was planning to issue a formal memorandum on his opposition to the methods—delivering a draft to Mr. Haynes's office—that Mr. Rumsfeld suddenly retracted the techniques.

In a break from standard practice, former Pentagon lawyers said, the final draft of the report on interrogation techniques was not circulated to most of the lawyers, including Mr. Mora, who had contributed to it. Several of them said they learned that a final version had been issued only after the Abu Ghraib scandal broke.